

STATE OF NEW YORK

6376

2025-2026 Regular Sessions

IN SENATE

March 12, 2025

Introduced by Sen. SCARCELLA-SPANTON -- read twice and ordered printed,
and when printed to be committed to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to prohibiting insurance carriers and employers from withholding certain benefits from injured workers based on attachment to the labor market

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph w of subdivision 3 of section 15 of the workers'
2 compensation law, as amended by section 1 of subpart A of part NNN of
3 chapter 59 of the laws of 2017, is amended and a new paragraph y is
4 added to read as follows:
5 w. Other cases. In all other cases of permanent partial disability,
6 the compensation shall be sixty-six and two-thirds percent of the
7 difference between the injured employee's average weekly wages and [~~his~~
8 ~~or her~~] such injured employee's wage-earning capacity thereafter in the
9 same employment or otherwise. Compensation under this paragraph shall
10 be payable during the continuance of such permanent partial disability,
11 [~~without the necessity for the claimant who is entitled to benefits at~~
12 ~~the time of classification to demonstrate ongoing attachment to the~~
13 ~~labor market, but~~] subject to reconsideration of the degree of such
14 impairment by the board on its own motion or upon application of any
15 party in interest however, all compensation payable under this paragraph
16 shall not exceed (i) five hundred twenty-five weeks in cases in which
17 the loss of wage-earning capacity is greater than ninety-five percent;
18 (ii) five hundred weeks in cases in which the loss of wage-earning
19 capacity is greater than ninety percent but not more than ninety-five
20 percent; (iii) four hundred seventy-five weeks in cases in which the
21 loss of wage-earning capacity is greater than eighty-five percent but
22 not more than ninety percent; (iv) four hundred fifty weeks in cases in
23 which the loss of wage-earning capacity is greater than eighty percent
24 but not more than eighty-five percent; (v) four hundred twenty-five

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 weeks in cases in which the loss of wage-earning capacity is greater
2 than seventy-five percent but not more than eighty percent; (vi) four
3 hundred weeks in cases in which the loss of wage-earning capacity is
4 greater than seventy percent but not more than seventy-five percent;
5 (vii) three hundred seventy-five weeks in cases in which the loss of
6 wage-earning capacity is greater than sixty percent but not more than
7 seventy percent; (viii) three hundred fifty weeks in cases in which the
8 loss of wage-earning capacity is greater than fifty percent but not more
9 than sixty percent; (ix) three hundred weeks in cases in which the loss
10 of wage-earning capacity is greater than forty percent but not more than
11 fifty percent; (x) two hundred seventy-five weeks in cases in which the
12 loss of wage-earning capacity is greater than thirty percent but not
13 more than forty percent; (xi) two hundred fifty weeks in cases in which
14 the loss of wage-earning capacity is greater than fifteen percent but
15 not more than thirty percent; and (xii) two hundred twenty-five weeks in
16 cases in which the loss of wage-earning capacity is fifteen percent or
17 less. For a claimant with a date of accident or disablement after the
18 effective date of ~~[the]~~ section one of subpart A of part NNN of chapter
19 fifty-nine of the laws of two thousand seventeen that amended this
20 subdivision, where the carrier or employer has provided compensation
21 pursuant to subdivision five of this section beyond one hundred thirty
22 weeks from the date of accident or disablement, all subsequent weeks in
23 which compensation was paid shall be considered to be benefit weeks for
24 purposes of this section, with the carrier or employer receiving credit
25 for all such subsequent weeks against the amount of maximum benefit
26 weeks when permanent partial disability under this section is deter-
27 mined. In the event of payment for intermittent temporary partial disa-
28 bility paid after one hundred thirty weeks from the date of accident or
29 disablement, such time shall be reduced to a number of weeks, for which
30 the carrier will receive a credit against the maximum benefit weeks. For
31 a claimant with a date of accident or disablement after the effective
32 date of ~~[the]~~ section one of subpart A of part NNN of chapter fifty-nine
33 of the laws of two thousand seventeen that amended this subdivision,
34 when permanency is at issue, and a claimant has submitted medical
35 evidence that ~~[he or she]~~ such claimant is not at maximum medical
36 improvement, and the carrier has produced or has had a reasonable oppor-
37 tunity to produce an independent medical examination concerning maximum
38 medical improvement, and the board has determined that the claimant is
39 not yet at maximum medical improvement, the carrier shall not receive a
40 credit for benefit weeks prior to a finding that the claimant has
41 reached maximum medical improvement, at which time the carrier shall
42 receive credit for any weeks of temporary disability paid to claimant
43 after such finding against the maximum benefit weeks awarded under this
44 subdivision. For those claimants classified as permanently partially
45 disabled who no longer receive indemnity payments because they have
46 surpassed their number of maximum benefit weeks, the following
47 provisions will apply:

48 (1) There will be a presumption that medical services shall continue
49 notwithstanding the completion of the time period for compensation set
50 forth in this section and the burden of going forward and the burden of
51 proof will lie with the carrier, self-insured employer or state insur-
52 ance fund in any application before the board to discontinue or suspend
53 such services. Medical services will continue during the pendency of any
54 such application and any appeals thereto.

55 (2) The board is directed to promulgate regulations that establish an
56 independent review and appeal by an outside agent or entity of the

1 board's choosing of any administrative law judge's determination to
2 discontinue or suspend medical services before a final determination of
3 the board.

4 y. Effect of attachment to labor market. Benefits or compensation
5 otherwise due under this section shall not be withheld, diminished, or
6 conditioned upon an injured worker's demonstration of attachment to the
7 labor market.

8 § 2. This act shall take effect immediately.